

§ 531.609

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(4) A retained rate under 5 CFR part 536 or a similar rate under other legal authority.

(b) A GS employee receiving a special rate is entitled to any applicable locality payment on the same basis as any other GS employee. The locality payment is computed based on the employee's scheduled annual rate of pay, which excludes any special rate. The employee is entitled to the higher of the locality rate or the corresponding special rate. As provided in 5 U.S.C. 5305(h) and 5 CFR 530.303(d), when an employee's locality rate exceeds a corresponding special rate, the employee's entitlement to the special rate is terminated.

[70 FR 31304, May 31, 2005]

§ 531.609 Adjusting or terminating locality rates.

(a) When an employee's official worksite is changed to a different locality pay area, the employee's entitlement to the locality rate for the new locality pay area begins on the effective date of the change in official worksite.

(b) A locality rate must be adjusted as of the effective date of any change in the applicable scheduled annual rate of pay or any change in the applicable locality percentage.

(c) Except as provided in paragraph (d) of this section, entitlement to a locality rate associated with a particular locality pay area under this subpart terminates on the date—

(1) An employee's official worksite is no longer in the locality pay area;

(2) An employee is no longer in a position covered by this subpart; or

(3) An employee separates from Federal service.

(d) In the event of a change in the geographic coverage of a locality pay area as a result of the addition by OMB of a new area(s) to the definition of an MSA or CSA, the effective date of any change in an employee's entitlement to a locality rate of pay under this subpart is the first day of the first pay period beginning on or after January 1 of the next calendar year. Any area removed by OMB from coverage within an MSA or CSA that serves as the basis for defining a locality pay area must be reviewed by the Federal Salary Council and the President's Pay Agent before a

decision is made regarding the locality pay status of that area.

(e) As provided in § 531.205, when an employee becomes covered by one or more different pay schedule(s) because the employee is stationed at a new official worksite in a different geographic location, the employee's pay (including a locality rate) must first be converted to the applicable pay schedule(s) in the new location before applying any other pay action (other than a general pay adjustment).

[70 FR 31304, May 31, 2005, as amended at 72 FR 34363, June 22, 2007]

§ 531.610 Treatment of locality rate as basic pay.

A locality rate is considered to be an employee's rate of basic pay only for the purpose of computing or applying—

(a) Retirement deductions, contributions, and benefits under 5 U.S.C. chapters 83 and 84;

(b) Life insurance premiums and benefits under 5 U.S.C. chapter 87;

(c) Premium pay under 5 U.S.C. chapter 55, subchapter V, and 5 CFR part 550, subparts A and I (including the computation of limitations on premium pay);

(d) Severance pay under 5 U.S.C. 5595 and 5 CFR part 550, subpart G;

(e) Advances in pay under 5 U.S.C. 5524a and 5 CFR part 550, subpart B;

(f) Post differentials under 5 U.S.C. 5925(a) and danger pay allowances under 5 U.S.C. 5928 for an employee temporarily working in a foreign area when the employee's official worksite is located in a locality pay area;

(g) Post differentials under 5 U.S.C. 5941 and 5 CFR part 591, subpart B, for an employee temporarily working in a nonforeign area when the employee's official worksite is located in a locality pay area;

(h) Recruitment, relocation, and retention incentives, supervisory differentials, and extended assignment incentives under 5 U.S.C. chapter 57, subchapter IV, and 5 CFR part 575;

(i) Performance-based cash awards under 5 U.S.C. 4505a and 5 CFR part 451, subpart A, when such awards are computed as a percentage of an employee's rate of basic pay;

(j) GS pay administration provisions (e.g., GS promotion provisions) to the

extent provided in subpart B of this part;

(k) Pay administration provisions for prevailing rate employees which consider rates of basic pay under the GS pay system in setting pay (except as otherwise provided in 5 CFR part 532), subject to the requirement that, if the employee's actual locality rate would not apply at the official worksite for the prevailing rate position, that locality rate must be converted to a corresponding rate on the locality rate schedule for that official worksite;

(l) Lump-sum payments under 5 CFR part 550, subpart L, for accumulated and accrued annual leave;

(m) Grade and pay retention under 5 U.S.C. chapter 53, subchapter VI, to the extent provided by 5 CFR part 536;

(n) Other provisions as specified in other statute or OPM regulations; and

(o) Payments or benefits equivalent to those listed in this section under other legal authority, as determined by the head of the agency or other authorized official responsible for administering such payments or benefits.

[70 FR 31304, May 31, 2005, as amended at 70 FR 74996, Dec. 19, 2005; 73 FR 66154, Nov. 7, 2008]

§ 531.611 Miscellaneous provisions.

(a) A locality rate may be paid only for those hours for which an employee is in a pay status.

(b) Payment of, or an increase in, a locality rate is not an equivalent increase in pay within the meaning of 5 U.S.C. 5335. (See § 531.407(c).)

(c) A locality rate is included in an employee's *total remuneration*, as defined in 5 CFR 551.511(b), and *straight time rate of pay*, as defined in 5 CFR 551.512(b), for the purpose of overtime pay computations under the Fair Labor Standards Act of 1938, as amended.

(d) Consistent with § 531.610, a reduction or termination of a locality rate under § 531.609 is not an adverse action for the purpose of 5 CFR part 752, subpart D, or an action under 5 CFR 930.211.

[70 FR 31305, May 31, 2005, as amended at 73 FR 66154, Nov. 7, 2008]

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